



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV
DIAW 04-03

Paper No. 13

DARIN J GIBBY
TOWNSEND AND TOWNSEND AND CREW
TWO EMBARCADERO CENTER 8TH FLOOR
SAN FRANCISCO CA 94111

COPY MAILED

APR 16 2003

OFFICE OF PETITIONS

In re Patent No. 6,394,144

:

Issued: 28 May, 2002

: DECISION DISMISSING

Application No. 09/868,145

: PETITION

Filed: 20 September, 2001

:

Attorney Docket No. 020399-000100US

:

This is a decision on the petition filed under 37 CFR 1.182 on 4 December, 2002, requesting issuance of a Certificate of Correction to add a claim of priority to two foreign applications to the front of the Letters Patent.

The petition is dismissed.

Any request for reconsideration of this decision should be filed within TWO (2) MONTHS of this decision. **This time period is not extendable.**¹

37 CFR 1.55(a)(2) states, in pertinent part:

The claim for priority and the certified copy of the foreign application specified in 35 U.S.C. § 119(b) or PCT Rule 17 must, in any event, be filed before the patent is granted.

A review of the file fails to disclose an indication that either the claim for priority or the certified copy of the foreign applications were filed prior to the date the patent issued. If the claim for priority and the certified copies have never been submitted, a claim to foreign priority benefits cannot be perfected by way of a certificate of correction since the requirements of 35 U.S.C. § 119(a)-(d) were not satisfied in the patent application, or its parent, prior to issuance, and the requirements of 37 CFR 1.55(a) are not met. As such, the claim to foreign priority benefits can be perfected only by way of a

¹See 37 CFR 1.181(f).

reissue application.²

For the above-stated reasons, the issuance of a Certificate of Correction is not appropriate. The petition is therefore dismissed.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner of Patents and Trademarks
Box DAC
Washington, D.C. 20231

OR (after 1 May, 2003)³

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite CP4-3C23
2201 South Clark Place
Arlington, VA 22202

The application file is being forwarded to Files Repository.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 308-6918.


Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

²See Brenner v. State of Israel, 158 USPQ 584.

³Effective 1 May, 2003, the U.S. Patent and Trademark Office is changing its address for some mail in preparation for its move to new office space in Alexandria, Virginia beginning at the end of 2003. See 68 Fed. Reg. 14332 (March 25, 2003).